

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CV 2011-411 RHS/LFG

THE UNKNOWN HEIRS, DEVISEES, OR
LEGATEES OF ANITA M. IAFRATE,
DECEASED; and, OCCUPANTS, WHOSE
TRUE NAMES ARE UNKNOWN, IF ANY,

Defendants.

**DEFAULT JUDGMENT, DECREE OF FORECLOSURE
AND ORDER OF SALE**

THIS MATTER coming before the Court, the United States appearing by and through its attorneys, Kenneth J. Gonzales, United States Attorney for the District of New Mexico, and Manuel Lucero, Assistant United States Attorney; Defendants appearing not; and the Court being fully advised in the premises, FINDS:

1. Defendants, The Unknown Heirs, Devisees, or Legatees of Anita M. Iafate, Deceased and Occupants, Whose True Names Are Unknown, If Any were served with service herein by publication. No Defendant has answered or otherwise plead and a Clerk's Entry of Default was entered on April 10, 2012. See, Doc. 10.

2. This Court has jurisdiction over the parties and the subject matter of this suit.

3. The allegations of the Complaint are sustained by the evidence and are adopted as findings of fact. The Court concludes as a matter of law that the Plaintiff is entitled to the relief demanded in the Complaint.

4. The Note and Mortgage described in the Complaint were executed and delivered by Anita M. Iafate, now deceased, to Financial Freedom Senior Funding

Corporation and the Note and Mortgage were subsequently assigned to The Secretary of Housing and Urban Development, an agency of the United States of America. The Note is in default and there is due the United States the following:

Principal and Interest to July 31, 2010	\$100,768.10
Lis Pendens Fee	11.00
Service by Publication	400.38
TOTAL	101,179.49

The United States is further due interest accruing at the daily rate of \$6.49 from, July 31, 2010 to the date of judgment, with interest accruing at the legal rate of 0.18% per annum thereafter, computed daily and compounded annually until paid, plus the amount of any advances made after July 31, 2010, and ad valorem taxes.

5. Said amount is a first and prior lien, subject to any outstanding taxes, on the following-described real property (Real Property) located in Colfax County, New Mexico:

The East half of Lot 1 in Block 17 of the Fairview Addition to the City of Raton, Colfax County, New Mexico.

More commonly known as: 1490 State Street, Raton, New Mexico 87740.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED as follows:

A. The United States of America is granted an *in rem* judgment in the sum of \$101,179.49, plus interest on the unpaid principal at the daily rate of \$6.49 from July 31, 2010, to the date of judgment. Interest will accrue thereafter at the legal rate of 0.18% per annum, computed daily and compounded annually until paid, on the total unpaid principal, costs, and all accrued interest thereon to the date of judgment, plus the amount of any advances made after July 31, 2010, including ad valorem taxes, and the

United States District Court Clerk's filing fee in the amount of \$350.00 pursuant to 28 U.S.C. § 2412(a)(2).

B. The United States has a first and prior lien on the Real Property subject to any outstanding taxes and/or liens recorded pursuant to N.M.S.A. § 3-36-1 *et seq.*

C. After due and proper notice setting forth the time and place for sale as provided by law, the United States Marshal is directed to offer the Real Property at public sale and is directed to sell the Real Property to the highest bidder subject to any outstanding taxes and/or liens recorded pursuant to N.M.S.A. § 3-36-1 *et seq.*

D. The Real Property shall be purchased for cash unless it is purchased by the United States. If it is purchased by the United States it may credit the amount of principal and interest due it against the purchase price.

E. After sale, the United States Marshal shall report his actions to this Court, and upon the Court's confirmation of the report, the Marshal shall execute and deliver to the purchaser or purchasers a good and sufficient deed to the Real Property. Upon delivery of the deed by the Marshal, the purchaser or purchasers shall be allowed immediate possession of the property and shall hold the same free and clear of all right, title, and interest of the defendants and all persons claiming under them subsequent to the execution of the Note and Mortgage, subject to any outstanding taxes and/or liens recorded pursuant to N.M.S.A. § 3-36-1 *et seq.* Defendants or persons claiming under them subsequent to the execution of the Note and Mortgage are barred and estopped from having or claiming any right, title, or interest in and to the Real Property adverse to the purchaser or purchasers.

F. The proceeds of the sale shall be applied as follows: (1) to payment of the United States Marshal's fees, any costs of this action and disbursements in accordance with the laws and rules of this Court; (2) to the payment of the lien of the United States; (3) any remaining funds to be paid to the Clerk of the Court to be disbursed on order of this Court as may be determined subsequently and as this Court shall at that time direct.

G. The redemption period shall be 30 days from the date of the sale.

Robert Hayes Scott

UNITED STATES MAGISTRATE JUDGE

APPROVED AND SUBMITTED BY:

KENNETH J. GONZALES
United States Attorney

Submitted 07-27-12

MANUEL LUCERO
Assistant U.S. Attorney